

1 Q. And by doing that, do you believe that you
2 are fulfilling your fiduciary duty to the
3 corporation as a board member?

4 A. Yes.

5 Q. Now, obviously, before that May 24, 2019
6 vote happened, the Plaintiffs in this case brought
7 a preliminary injunction petition against the
8 corporation. Do you recall that?

9 A. Yes.

10 Q. And do you recall being in court on May 23,
11 2019 which would be the day before the vote?

12 A. No. I didn't attend. I was on the road.

13 Q. But is it your understanding that the
14 preliminary injunction was not granted?

15 A. Right. I did understand that afterwards.

16 Q. And is it true that as a result of that,
17 the vote did, in fact, take place; correct?

18 A. Yes.

19 Q. Thank you.

20 Now, moving back to Group Exhibit A, I'm
21 going to represent to you that that is a group of
22 documents with a cover sheet referring to the
23 documents, specifically invoices supplied by Dirt
24 Bottom Excavating to the corporation. So let me
25 ask you, Larry, if you can look through these for

1 me. When you were the president of SVDC, do you
2 recall if you saw these documents?

3 A. Yes. When Dan assembled these documents,
4 yeah, I do recall seeing them.

5 Q. And if I can point your attention
6 specifically to Exhibit C. Can you describe in
7 your own words what were the services there and
8 what is that invoice for?

9 A. So we meet at the church monthly, and for
10 the safety of those in attendance, the lot needed
11 to be tended to. So Dan did that prior to the
12 meeting.

13 Q. Now, do you recall, with this specific
14 instance of plowing that you volunteered, whether
15 or not he brought up at a meeting before the
16 plowing and asked whether or not he should plow?
17 Do you recall?

18 A. No. He just did it.

19 Q. There was a lot of talk earlier in your
20 testimony on direct with Attorney Regan about
21 research, whether or not you had researched things
22 and have these in-depth discussions. Do you recall
23 that?

24 A. Yes.

25 Q. Did you feel it was necessary to research

1 or have an in-depth discussion about the parking
2 lot being plowed for the safety of the members?

3 A. No.

4 Q. Now, I know that I had already asked you,
5 you were familiar with these documents; correct?

6 A. Yes.

7 Q. Okay. Thank you. Now, on the front page,
8 if I could point your attention, we have a
9 tabulation of donations that are referred to
10 throughout those documents as \$3,272.01. Do you
11 see that?

12 A. Mm-hmm.

13 Q. And that number represents all of these
14 invoices being added up. Do you understand that?

15 A. Yes.

16 Q. Do you have any reason to believe that that
17 number is incorrect?

18 A. No.

19 Q. Then there's also one invoice that was paid
20 for \$2,300. And we can go to the group exhibit,
21 and it's actually named E in the group exhibit,
22 removal of three stumps and one telephone pole. Do
23 you see that exhibit?

24 A. Yes.

25 Q. Do you have any reason to believe that that

1 exhibit is not accurate?

2 A. No.

3 Q. Do you have any reason to believe that
4 that's the extent of the work that Dirt Bottom was
5 paid for during the relevant time period? And that
6 relevant time period is on the front page. The
7 relevant time period being April 17, 2017 to
8 October 13, 2020.

9 A. Yes. That's correct.

10 Q. Now, aside from the donations total there,
11 you had also testified that there's many instances
12 of Mr. Dively volunteering where you were not given
13 an invoice; is that correct?

14 A. Right.

15 Q. So is it fair to say that that \$3,200
16 number is actually in reality more than likely
17 higher? It's just we don't have invoices for all
18 of those volunteering acts; correct?

19 A. Safe to assume, yeah.

20 Q. Now, during your testimony this morning,
21 you had mentioned three instances where the bidding
22 process was done where Dirt Bottom Excavating was
23 one of the companies that submitted a bid; is that
24 correct?

25 A. Yes.

1 Q. And just to recap, the first one, I
2 believe, there was a bid. Was it by -- well, the
3 first instance, who bid? It was Dirt Bottom
4 Excavating and who else?

5 A. It was for stump removal, and it was Maust
6 and Dirt Bottom.

7 Q. But it turns out that the stumps were never
8 removed, or were they?

9 A. No. They were. Maust was the low bidder
10 and got the job.

11 Q. So Maust ultimately did the work in that
12 case?

13 A. Yes.

14 Q. Now, what about the second instance?

15 A. The second instance I recall was the Sunset
16 project where S&S put in the bid but then, once he
17 recognized the scope of the work, walked away from
18 the job.

19 Q. And did Dirt Bottom Excavating put in a bid
20 for that?

21 A. Yeah, they did.

22 Q. But it turns out that Dirt Bottom
23 Excavating was not contracted for that job either;
24 correct?

25 A. No.

1 Q. Now, was there not a third instance where
2 S&S bid and Dirt Bottom bid and S&S got the job;
3 correct?

4 A. Yes.

5 Q. So your tenure as president, you cannot
6 recall a time where SVDC actually contracted Dirt
7 Bottom Excavating after going through the bidding
8 process?

9 A. Right.

10 Q. Now, there was discussion that Jim Bandstra
11 had given authorization for Dively to do some
12 excavating work; is that correct?

13 A. Yes.

14 Q. And you said the payment for that was
15 approximately \$3,000?

16 A. \$4,000, I believe.

17 Q. \$4,000? Okay. And you mentioned that that
18 was an approximate \$30,000 job; is that correct?

19 A. Yes.

20 Q. You were asked by Attorney Regan whether or
21 not or why would Daniel or Dirt Bottom do a \$30,000
22 job for \$4,000. Do you recall that question?

23 A. Yes.

24 Q. Is a possible explanation that was
25 volunteer work?